GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

STARRED QUESTION NO:290
ANSWERED ON:16.03.2001
PATENTING OF INDIAN PRODUCTS
MOINUL HASSAN AHAMED;RASA SINGH RAWAT

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) the details of products on which patent list has been maintained by the Indian Government;

(b) the details of patent cases filed by the Indian Government against various foreign countries and vice-versa as on date;

(c) the latest position of each cases;

(d) the action taken by the Government for patenting many Indian products traditionally produced in the country;

(e) the policy of the Government to save the Indian products being patented by the foreign companies;

(f) whether the Government have identified those Indian products, which are being patented by the foreign countries;

(g) if so, the details thereof; and

(h) the steps being taken by the Government to deal with this problem?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (DR. RAMAN SINGH)

(a) to (h): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO.290 FOR ANSWER ON 16.3.2001 REGARDING PATENTING OF INDIAN PRODUCTS

(a) : Patents are obtained by inventors to prevent their unauthorised exploitation by others. Government acts as a facilitator by granting patents to inventions which fulfil the criteria of patentability as per the patents law. In India, patents are granted under the provisions of the Patents Act, 1970. Section 5 of the said Act provides for process patents for inventions in the fields of food, medicine or drug and substances produced by chemical processes. In other fields, both process and product patents are permissible. Particulars of patents granted in different fields are maintained by the Patent Office and the statistical information is published annually in its annual report which is laid on the Table of the House.

(b) and (c): Patents are granted under the sovereign prerogative of countries according to their respective Patent Laws and have territorial effect, that is, they are effective only in the country of grant. A patent is normally challenged by the person(s) whose interests are affected/jeopardised. The challenge is to be made under the laws of the country concerned. The Indian patent law provides for pre grant opposition whereas the laws of several other countries provide for post grant opposition only. As and when information is received about patents being obtained on certain items which are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patents can be challenged under the patent laws of the country concerned.

Earlier a patent granted in the United States of America on the use of turmeric for wound healing was challenged. The said patent was also cancelled.

Certain claims in respect of the patent on Basmati Ricelines and grains granted in the United States of America were also challenged since they had the potential of affecting India`s commercial interests. Pursuant to the challenge, these claims and an additional claim was withdrawn by the patentee. .

(d): Patents are granted by following the basic principles of novelty, inventiveness and industrial applicability. Products, including traditional produce, already existing cannot be a subject matter of patent.

(e) to (h): In order to protect bio-resources, the Patents (Second Amendment) Bill,1999, contains provisions for mandatory disclosure of source and geographical origin of the biological material used in the invention while applying for patents in India. Provisions have

also been incorporated to include the non-disclosure or wrongful disclosure of the same as grounds for opposition and for revocation of the patent, if granted. Provisions in this regard are contained in clauses 8, 17 and 28 of the said Bill.

In order to protect traditional knowledge from being patented, provisions have been incorporated in the Patents (Second Amendment) Bill, 1999, to include anticipation of invention by available local knowledge, including oral knowledge, as one of the grounds for opposition as also for revocation of patent. Provisions in this regard are contained in clauses 17 and 28 of the said Bill.

Apart from this, Government has also approved development of a digital database of traditional knowledge in the field of medicinal plants to prevent patenting of products based on such knowledge.